

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO – WESTERN DIVISION

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of criminal complaint charging the Daniel Schwarz with conspiracy to possess with the intent to distribute a controlled substance and attempted possession with the intent to distribute a controlled substance, in violation of Title 21, United States Code, Section 846.

2. I am a Special Agent of the Federal Bureau of Investigation (FBI), and, have been since May, 2008. Your Affiant is currently assigned to the Cleveland Division. I worked in the same capacity in the Cincinnati Division, Dayton Resident Agency and the Minneapolis Division, Grand Forks, North Dakota Resident Agency. Your Affiant has investigated the commission of federal crimes involving criminal offenses and national security matters to include counterintelligence investigations, violent crimes, and drug trafficking. In the course of these duties, Your Affiant has participated in numerous federal search and arrest operations and conducted associated interviews which have resulted in the collection of evidence and admissions of multiple criminal violations.

3. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

4. Based on my training and experience and the facts as set forth in this affidavit, there is probable cause to believe that a violation of 21 U.S.C. § 846 has been committed by Daniel Schwarz.

PROBABLE CAUSE

5. The United States, including the Federal Bureau of Investigation, is conducting a criminal investigation of Daniel Schwarz, and others yet unknown, regarding possible violations of 21 U.S.C. § 846 Conspiracy to Possess fentanyl.

6. On or about August 3, 2019, a cooperating witness ("CHS-1") informed the Lima Police Department that he/she was aware that Daniel A. Schwarz (Schwarz) is plotting and soliciting to kill Michael David McCulloch (McCulloch) and frame Robert Meisner by planting fentanyl in his vehicle. McCulloch and Meisner are attorneys who maintain a practice in southeastern Michigan.

7. By way of background, Schwarz is a medical doctor who specializes in pain management. CHS-1 is a drug addict that struggles with abuse of methamphetamine. CHS-1 initially met Schwarz in September 2018, while attending the Anhedonia Clinic in Lima, Ohio, for treatment related to his/her drug addiction. Schwarz and CHS-1 developed a friendship from their initial meeting. In April 2019, Schwarz was transferred to the Full Circle Recovery Services in Findlay, Ohio. CHS-1 followed Schwarz to Full Circle Recovery Services for his/her treatment.

8. While at Full Circle Recovery Services, Schwarz divulged to CHS-1 his intention to kill a Michigan lawyer involved in a civil lawsuit that concluded with an approximately \$60,000 judgment against him, and possibly plant fentanyl on the other attorney involved in the case. Initially, Schwarz asked CHS-1 if he/she could obtain a firearm suppresser/silencer in

order to kill McColloch. Later, Schwarz indicated he wanted to give a covert lethal injection of a mixture of fentanyl and Xanax by a “brush pass,” meaning someone appearing to accidentally bump into him and during that interaction inject him with a fatal amount of drugs.

9. CHS-1 believed Schwarz was merely venting to relieve frustrations pertaining to the victim. However, in early August 2019, Schwarz became more adamant about his plan, and CHS-1 began to believe that he was serious about killing McColloch. Subsequently, CHS-1 reported the incident to the Lima Police Department.

10. On or about August 20, 2019, CHS-1 conducted an interview with the Federal Bureau of Investigation. CHS-1 reiterated that Schwarz wanted to kill McColloch through a fatal injection. Schwarz agreed to pay CHS-1 \$2,000 for his/her help in this plan. Schwarz recently instructed CHS-1 to download, and utilize, an application called Signal¹ and to buy a “burner” phone. CHS-1 was provided a burner telephone by the FBI.

11. On that same day, CHS-1 called Schwarz on telephone number (734) 330-7373 to inform him of his/her burner telephone number to ensure he would answer when she called the a second telephone number of (419) 344-9148. CHS-1 then called Schwarz and conducted a consensually recorded telephone conversation. The call confirmed CHS-1’s statement to the FBI. Schwarz began the call by asking for CHS-1’s alias and told him/her that his alias for this plan is “Dirk McBride.” Schwarz told him/her the spelling for attorney McColloch. Schwarz told CHS-1 that his/her “retreat is not until next week . . . for MDM [Michael David

¹ Signal is an application that allows individuals to communicate by text message and voice through end-to-end encryption, making it more difficult to intercept.

McColloch].² Schwarz concluded the telephone conversation confirming CHS-1 had his/her medication and told him/her he was getting a new phone tomorrow and would contact him/her.

12. On August 21, 2019, CHS-1 called and sent text messages to Schwarz. Schwarz told CHS-1 to come to his office on Meijer Drive in Toledo, Ohio. CHS-1 wore a recording device and live transmitter. CHS-1 and Schwarz talked for over an hour. Schwarz told CHS-1 that he received a text message around 9:00 p.m. that night from his associate who said he was following a target out of Birmingham, Michigan and was going to let him know when the “docs were in order³.” It was not clear which telephone number was used to receive this text message. Schwarz told CHS-1 that he was going to get him/her a hotel room tomorrow in Toledo and they can talk more then. During the same conversation, Schwarz told CHS-1 that he had enough fentanyl for one of the victims and not both. CHS-1 indicated that he/she was in position to obtain fentanyl for Schwarz.

13. On August 22, 2019 Verizon Wireless provided the subscriber information to cellular telephone numbers (734) 330-7373 and (419) 344-9148 (Target Cell Phones) as Daniel Schwarz, 3537 Port Cove Drive, Waterford, Michigan 48328. CHS-1 spoke to Schwarz as recently as the afternoon of August 22, 2019 on (419) 344-9148.

14. On August 22, 2019, FBI agents met with CHS-1 who sent the following message to Schwarz while using the Signal application via telephone number 419-344-9148. The message reads as follows:

² It is believed that the word “retreat” is code for the plan to kill McColloch.

³ CHS-1 believes “docs” is code for the plan to kill McColloch

CHS-1: ok. Awesome and what we talked about you not having what you need for that other plan. A friend of mine is up in Lima from Chillicothe and called me and she can get some H with fentanyl and even better she said she would front me, but I gotta have the money back for it I wanted to see what you what you think first.

SCHWARZ: 3-4 but has to be tops. Rather have 2 or 3 better than more

CHS-1: what do you mean grams?

SCHWARZ: Please delete all messages.

15. Later that evening on August 22, 2019, CHS-1 traveled to Schwarz's office on Meijer Drive in Toledo, Ohio with a substance that appeared to be fentanyl to give to Schwarz. Upon arriving at the medical facility, there was another patient present. After the second patient departed, Schwarz and CHS-1 engaged in conversations pertaining to their plots involving Meisner and McCulloch. Schwarz discussed sprinkling some of the heroin and fentanyl mixture on the neck of McCulloch. Schwarz continued by saying that CHS-1 could surveil McCulloch in Michigan and eventually encounter him at a coffee shop and sprinkle the heroin and fentanyl mixture in his coffee. Schwarz added that CHS-1 would need to wear a wig.

16. Schwarz appeared to change the role of CHS-1 several times between being a passive surveillance and actively playing a role in providing illegal narcotics to him.

17. While at CHS-1's vehicle, Schwarz informed CHS-1 that he just received a telephone call and was informed that an associate of Schwarz's had a personal vendetta against McCulloch. Schwarz discussed a land development project where McCulloch became involved and ultimately filed a civil suit against this person's father. This person, who was later identified by Schwarz as Ken (Last Name Unknown), was willing to kill McCulloch for \$10,000.

18. Schwarz informed CHS-1 that they may only be required to make a telephone call now and no longer conduct any of their pre-arranged plans regarding McCulloch; but nonetheless, Schwarz took possession of the sham fentanyl.

19. Schwarz and CHS-1 departed the lot in their perspective vehicles and departed south. Schwarz turned into an access road near the front of the Meijer Department Store and pulled into a gas station in front of the Meijer. At this time Schwarz and CHS-1 were taken into custody. CHS-1 was released a short time later.

20. Schwarz was later transported to the FBI Toledo Resident Agency where he read his *Miranda* rights and agreed to speak with investigators. Schwarz explained to investigators that he was dealing with legal issues pertaining to a foundation issue with a condominium that he owns, which eventually turned into a financially taxing situation.

21. Schwarz became increasingly frustrated towards his attorney's perceived lack of effort in his civil lawsuit and his mounting financial responsibilities as a result of the lawsuit. He expressed disdain for two attorneys: Robert Meisner and Michael McColluch. Meisner served as Schwarz's counsel in the civil suit and McColluch served as an attorney representing the opposing party.

22. Schwarz said that he fantasized about killing Meisner and McColluch. He said that he would discuss these "fantasies" with several of his patients, who were being treated for substance abuse. Schwarz said that he had thoughts and discussions about kidnapping the attorneys and taking them to a secluded location and burning them, or injecting them with fentanyl. Schwarz described his thoughts akin to scenes from the Quinten Tarantino movie "Reservoir Dogs".

23. Schwarz admitted to having discussions with CHS-1 about obtaining heroin or a heroin and fentanyl mixture. Schwarz could not recall who initiated the conversations about acquiring the illegal narcotics however does recall asking CHS-1 to get a stronger dose rather than a larger quantity. According to Schwarz, he felt that the stronger the narcotics the harsher the punishment. Schwarz indicated that his intentions were to have the narcotics planted either in the attorney's vehicles or on their person.

24. Schwarz also admitted to having a conversation with CHS-1 regarding sprinkling the heroin or heroin and fentanyl mixture either on McCulloch or in his drink. Schwarz said that the intention was to never cause harm to McCulloch rather to just introduce the narcotics into their system.


CONCLUSION

25. Based on my knowledge, training and experience, and the facts set forth in this affidavit, I respectfully submit that there is probable cause to believe that the defendants committed conspiracy to possess with the intent to distribute a controlled substance and attempted possession with the intent to distribute a controlled substance, in violation of Title 21, United States Code, Section 846.

Respectfully submitted,



Andrew Eilerman
Special Agent
Federal Bureau of Investigation



James R. Knepp, II
UNITED STATES MAGISTRATE JUDGE